

# C A D W A L A D E R

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May 24, 2024

Application granted. **SO ORDERED.**

**VIA ECF**

**Dated May 27, 2024  
New York, New York**

/s/ John G. Koeltl  
**John G. Koeltl, U.S.D.J.**

The Hon. John G. Koeltl  
Daniel Patrick Moynihan Courthouse  
United States Courthouse  
500 Pearl St  
New York, New York 10007

Re: Leadenhall Capital Partners LLP et al v. Wander et al, No. 24-cv-3453 (JGK)

Dear Judge Koeltl:

We write on behalf of Advantage Capital Holdings LLC and Kenneth King (together, “A-CAP”) in connection with the above-captioned matter in accordance with Practice VI(A)(2) of Your Honor’s Individual Practices to respectfully request the sealing of certain information filed in connection with A-CAP’s opposition to Plaintiffs’ application for (1) a temporary restraining order, and (2) an order to show cause for a receiver or, alternatively, a preliminary injunction. A-CAP’s opposition papers are being electronically filed concurrently herewith, including both public (redacted) and under seal versions of those submissions. Due to the accelerated briefing schedule on Plaintiffs’ motion, the parties were unable to meet and confer in advance of this sealing request.

Specifically, A-CAP moves to seal narrow portions of its Memorandum Law and Saliba Declaration that relate to A-CAP’s sensitive commercial information, including recent investments and presently contemplated financial transactions.

In deciding whether documents should be filed under seal, courts in this Circuit employ a three-part analysis: (1) the court determines whether the documents are judicial documents; (2) the court evaluates the weight of the public’s presumptive right of access; and (3) once the weight of the presumption is determined, a court must balance competing considerations. *Mercantile Glob. Holdings, Inc. v. Hamilton M&A Fund, SP*, No. 23-CV-8446, 2024 WL 1974276, at \*1 (S.D.N.Y. May 3, 2024) (citing *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006)).

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A-CAP acknowledges that documents provided to aid a court's adjudication of a temporary restraining order or preliminary injunction are judicial documents that are generally entitled to a presumption of public access. Nonetheless, significant countervailing considerations weigh against disclosure under the circumstances presented here.

A-CAP's sealing request is narrowly tailored and limited to targeted redactions of its confidential, proprietary information—namely, detailed financial information regarding current investments and its present investment strategy. The need to safeguard such “truly confidential commercial information” weighs in favor of sealing. *Mercantile Glob. Holdings, Inc. v. Hamilton M&A Fund, SP*, No. 23-CV-8446, 2024 WL 1974276, at \*1 (S.D.N.Y. May 3, 2024). See also, e.g., *Sec. & Exch. Comm'n v. Telegram Grp. Inc.*, No. 19-CV-9439, 2020 WL 3264264, at \*3 (S.D.N.Y. June 17, 2020) (“Disclosure of internal financial analyses of a business opportunity by a professional investment firm could reveal proprietary analysis and provide competitors with an unearned advantage.”); *Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (approving narrow redactions of “specific business information and strategies, which, if revealed, may provide valuable insights into a company’s current business practices that a competitor would seek to exploit”) (quotation omitted).

Specifically, A-CAP requests sealing of paragraphs 8, 9, 13, and 15 of the Saliba Declaration and (as well as the corresponding portions of its Memorandum of Law).

For all the foregoing reasons, A-CAP respectfully requests that the Court permit the above-referenced portions of its opposition submissions to be filed under seal, and permit only counsel and court personnel to view the proposed sealed documents.

Respectfully submitted,



Jonathan M. Watkins

JMW

cc: All Counsel of Record via ECF